

AGENDA

The McLean County Board of Health Meeting, Tuesday, December 13, 2016, 5:30 p.m., in Room 322 of the McLean County Health Department, 200 W. Front St., Bloomington, Illinois.

Item	Page #	00
A. Call to Order		
B. Establish Agenda		00
C. Public Participation		
D. Old/New Business		
1. <u>Items for Action:</u>		
a. 2017 Board of Health Meeting Calendar		01
b. Nominating Committee Minutes and Election		02-03
2. <u>Items for Discussion:</u>		
a. Introduction of Health Promotion Program Manager		
b. Board of Health Bylaws – Analysis		04-09
E. Board Issues		
1. CLOSED SESSION pursuant to section 2 (c)(1) of the Open Meetings Act (5 ILCS 120/2(c)(1)) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity.		
2. Items for Action (if necessary)		
a. Formal approval of action to be taken regarding the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity.		
3. Items for Discussion		
F. Adjourn		

**CALENDAR 2017
McLEAN COUNTY BOARD OF HEALTH
MEETING DATES
5:30 p.m.**

January 18, 2017	Quarterly Meeting & Budget Work Session
March 8, 2017	Regular Meeting
May 10, 2017	Quarterly Meeting and Strategic Plan Review
June 14, 2017	CY18 Budget Work Session
July 12, 2017	Regular Meeting
August 9, 2017	Regular Meeting and CY18 Budget
September 13, 2017	Quarterly Meeting
November 8, 2017	Quarterly Meeting
December 13, 2017	Regular Meeting

Minutes of the Meeting of the Nominating Committee of the McLean County Board of Health

The Nominating Committee of the McLean County Board of Health met on Friday, December 2, 2016 at 10:00 a.m. in the Administrative Conference Room at the McLean County Health Department, 200 West Front Street, Bloomington, Illinois.

Members Present: Dr. Alan Ginzburg, Ms. Corey Tello, Mr. John Zeunik

Members Absent: None

Others Present: None

Mr. Zeunik called the meeting to order at 10:08 a.m. Mr. Zeunik noted that all members of the Nominating Committee were present. Mr. Zeunik noted that no other members of the Board of Health were in attendance. Mr. Zeunik also noted that no members of the public or the local media were in attendance. As a result, there was no public participation.

Mr. Zeunik advised the Committee members that, after consulting with Mr. Don Knapp, First Civil Assistant State's Attorney, he sent an individual E-mail to each member of the Board of Health, other than the members of the Nominating Committee, asking each member to express any interest in being considered for the position of President or Secretary. The E-mail asked each Board member to respond only to Mr. Zeunik's E-mail address. Mr. Zeunik distributed a copy of this E-mail to the Nominating Committee. Mr. Zeunik advised the members of the Nominating Committee that two responses were received. Before reviewing the responses received, Mr. Zeunik asked if any member of the Nominating Committee wished to be considered for the position of President or Secretary. Dr. Ginzburg, Ms. Tello and Mr. Zeunik declined to be considered for the position of President or Secretary.

Mr. Zeunik distributed to the Nominating Committee a copy of the E-Mail received from Ms. Judy Buchanan expressing her interest in serving as President and a copy of the E-Mail received from Ms. Sonja Reece expressing her interest in serving as Secretary. Mr. Zeunik asked if there was any further discussion by the Committee members. Hearing none, Mr. Zeunik asked for a motion.

Motion by Ginzburg/Tello to recommend that the Nominating Committee submit the name of Ms. Judy Buchanan to serve as President and the name of Ms. Sonja Reece to serve as Secretary of the McLean County Board of Health. Motion Carried unanimously.

Mr. Zeunik asked if there was any additional business to come before the Nominating Committee. Hearing none, Mr. Zeunik asked for a motion to adjourn.

Motion by Ginzburg/Tello to adjourn at 10:15 a.m. Motion carried.

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Respectfully submitted,



John M. Zeunik

Analysis of BOH By-laws.

In looking at the BOH's enabling legislation, there is no mandate that it be governed by a set of by-laws. 55 ILCS 5/5-2500 et seq. Nevertheless, like any public organization, once enacted a public body may suffer consequences for violating a public body's by-laws. The most severe of which is to subject itself to the argument that any action taken in violation of the by-laws is void *ab initio*.

With that said, turning to the by-laws themselves:

ARTICLE I Purpose

Article I begins by stating, "The purpose of the McLean County Health Department..." One wonders why the Board of Health by-laws define any purpose other than that of the Board of Health.

In looking at St. Clair County's by-laws, they include no reference to a purpose of the health department or how the health department shall carry out its mission. St. Clair's by-laws are constrained to the operation of the St. Clair Board of Health.

Macon County defines the BOH mission as "developing and supporting policies and procedures for the management of the Macon County Health Department."

Peoria County state's its purpose is simply, "The BOH shall establish the policy, in accordance with its mission and vision, to assure the delivery of sound programs of disease prevention, health promotion and protection of food, water, and the environment."

Lake County's bylaws contain the largest Purpose section which begins by referencing the Counties Code enabling legislation. As it specifically references the Lake County health department, it states, "The BOH shall maintain a well organized and financed Health Department with sound programs to promote physical and emotional health, prevent disease, injury and disability, and protect the environment, through the assessment of needs, the development of public policy, and the provision of accessible, quality services. In accordance with these principles, the BOH, through its mode of operation, shall seek to achieve the department mission statement."

It seems odd to see no reference to the purpose of the Board of Health in Article I of the Board of Health bylaws yet instead reference to the purpose of the Health Department.

ARTICLE II Members

This article is short and mirrors in substance the articles from the other BOH bylaws I have reviewed. The operative language is that the "Appointments to the Board are made as required by law and are for a three year term, beginning on July 1, except the county board member

whose appointment for one year is made by the chairman of the County Board with the advice and consent of the County Board.” This language, while axiomatic, gives some flexibility in case the law changes (“appointments are made as required by law”).

The July 1 date is the date identified in the Counties Code as the start of a term of office.

Macon County lists out the statutory requirements of 2 physicians, 1 dentist and 1 member of the County Board in its bylaws. Other items spelled out in Macon County’s bylaws are that each new member must complete OMA training within 90 days of appointment and the process of communicating a resignation of a member to the County Board for the appointment of a replacement.

Peoria County’s bylaws details the process of removal for misconduct as prescribed in 55 ILCS 5/5-250. It also defines neglect of duty as “missing three or more scheduled Board or Committee meetings in any 12 consecutive months.”

While the BOH would certainly be justified in considering adding such terms to this Article, doing so seems redundant. Detailing the specific make up of the Board only forces the Board to amend that provision should the legislature change the statutorily required number of physicians. If I were to recommend anything, it would either be to leave this section alone or simply shorten it to the following: “Appointments to the Board are made as required by law.”

ARTICLE III Officers

This section was amended in May of 2016. It calls for the BOH to have a President and a Secretary. Those are the only two statutorily mandated officers, a president and secretary. References to a VP and executive committee have been deleted.

State statute mandates that the BOH “hold a meeting prior to the end of each operating fiscal year, at which meeting officers shall be elected for the ensuing operating fiscal year.” (55 ILCS 5/5-25013 (A) 1). That is why yearly election of officers is necessary and which led to the language that “officers shall be elected at a meeting prior to the end of each operating fiscal year” which is currently in your bylaws.

Peoria County only has a president and secretary. Peoria County prescribes a process to select those officers by which the president appoints a nominating committee to bring forth a slate of candidates. It further limits officers to serving “one consecutive term in that office.” Peoria County dictates that in the absence of the president, the secretary acts as president pro-tem.

St. Clair County names a president, president elect, secretary and treasurer. Those officers hold one year terms then leave their respective positions. Vacancies are filled by automatic succession.

Macon County names a president, vice president, secretary and treasurer. It also uses a nominating committee which meets in October. However, it also allows nominating from the floor of the Board. Members may not serve more than 3 consecutive years in any one office.

This Board will have to decide if it want to spell out the process for naming officers and/or limiting their terms.

ARTICLE IV Meetings

The language in the current bylaws mandates that the BOH hold at least quarterly meetings. This comes from statute. The State mandates you hold at least quarterly meetings. You also specify the process by which members may call special meetings, which again follows state statutory language. The third issue addressed in this area of the bylaws is public comment, spelling out a process by which members of the public may be heard to address the BOH.

Peoria County's BOH bylaws contain similar language about a minimum of quarterly meetings and special meeting triggers. Peoria County adds an allowance for attendance by means other than physical presence. OMA allows such remote attendance but only for illness, disability, certain employment purposes or family or other emergencies. Peoria County also has public comment rules in their bylaws. They are less restrictive than ours.

St. Clair County simply has the two statutory requirements in its bylaws (quarterly meetings and a special meeting if requested).

Macon County specifies times and places of the meetings. It also specifies the Agenda topics for both regular and special meetings. They have lengthy but similar section about public comments.

ARTICLE V Voting

We have a short section specifying that all votes must be decided by a majority of those present at the meeting. This section also defines that a quorum of the BOH is 6 people and that no vote may take place without at least 6 people present.

The other BOH bylaws I've reviewed contain similar language. Most incorporate this language into the meeting section of their bylaws and do not have their own stand alone.

ARTICLE VI Duties of Board

The BOH bylaws being noting that the Board shall enforce all state laws pertaining to the preservation of health, and all County and Municipal Ordinances and Resolutions and shall enforce all rules and regulations promulgated by the Illinois Department of Public Health, except as otherwise provided in the County Health Department in accordance with 55 ILCS 5/5-25013.

The 7 paragraphs of this section recites some language found within 5/5-25013 but not all of it. For example, paragraph 5 of this section reads:

"The Board shall provide for, or request, adequate financing for the Health Department; and, shall adopt fiscal policies which shall be in writing."

That somewhat mirrors 55 ILCS 5/5-25013(A)4 which reads, "The board of health ... shall: ...
4. Provide, equip and maintain suitable offices, facilities and appliances for the health department."

Macon County's bylaws do not define its powers and duties.

Peoria County's bylaws, like ours, cite to 55 ILCS 5/5-25013 and quote some language from that statute.

St. Clair County's do not cite to 55 ILCS 5/5-25013, but quote much of the language from the statute.

I question the purpose of quoting the powers and duties of the BOH in its bylaws. While the Board may be able to limit issues it wants to address, its powers and duties are set forth in 55 ILCS 5/5-25013 mainly, other state statutes and administrative regulations.

Two courses of action seem advisable with respect to Article VI. One would be to refer to the language in the Board's enabling legislation (55 ILCS 5/5-25013) and pick which exact duties and powers the Board wishes to emphasize then put those in this document. The other course would simply be to have the section read, "The Board of Health may exercise any and all powers and assumes all duties authorized by law, including but not limited to those described in section 5-25013 of the Counties Code."

At a minimum, this section refers to the "County Health Department Act." I've checked the popular name table of the Illinois Compiled Statutes and can find no such creature. I believe that the current language of 55 ILCS 5/5-25013 may have once been referred to as something called the County Health Department Act, but I can find no current compilation of authorities referred to as such.

ARTICLE VII Fiscal Year

There is little reason to change this section.

ARTICLE VIII Budget and Disbursements

This section references "The Health Department Act" and makes a few brief mentions of budgeting. Again, I find no such creature in Illinois law. I suspect at one time the language in 55 ILCS 5/5-25000 *et seq.* (specifically, 5-25013) was at one time referred to in that manner but it is not any more.

Peoria County has no similar provision and I do not see one in Macon County's bylaws either.

St. Clair County's is very similar to ours.

At the last BOH meeting, President Buchanan and/or others expressed a willingness to begin to engage in the budgeting process somewhat earlier than has been traditionally taken place. The Board may want to discuss whether it is advisable to incorporate those wishes into these bylaws. The Board may also wish to discuss whether a simple statement akin to that referenced above in Article VI might be advisable here: such as, "The Board of Health shall exercise proper budgeting process, control and authority as authorized by law, including but not limited to those described in sections 5-25010 and 5-25013 of the Counties Code."

Honestly, many of these statements are axiomatic which is why I believe neither Peoria County nor Macon County contain provisions in their bylaws. The legislature, through the Counties Code, gives the BOH its authority to operate so of course it is constrained to operate within those guidelines. The Board will have to decide if they wish for its bylaws to be a document which merely references those authorities, explains the process through which it will exercise that authority or a combination of both. It seems to me the intent of what is written now is an explanation of how/the process used by the Board to fulfil its obligation under 5-25010 to submit to the county board an annual budget for approval.

I think that is wise and it makes sense to me that the bylaws are a document describing how the Board will operate. The Board may wish to debate whether what is written adequately describes how it will exercise its duties and obligations regarding budgeting matters.

ARTICLE X Annual Report

This language merely recites the duty to provide an annual report as found in 55 ILCS 5/5-25013.

Again, a debate for the Board is why this is or should this be in the bylaws. The fact that it is in the bylaws neither creates the duty to nor mandates that the Board accomplish this task. The task is mandated by the State. Would the Board be better served with explaining how it is going to accomplish this statutory duty in its bylaws or merely receipting (as it does now) its statutory duty? That is only a question the Board can answer.

St. Clair County contains a similar provision but I do not see one in Peoria nor Macon County's bylaws.

ARTICLE XI Committees

This section was just amended to remove the executive committee. St. Clair County has similar language. Peoria County used to have a rather involved Committee section but now only has a nominating committee. Macon County allows the President to appoint standing and Ad Hoc committees and also describes their Nominating Committee.

The Board may want to specify the process of forming the nominating committee.

ARTICLE XII Reimbursement for Expenses of Members of the Board

There is again a reference to the County Health Department Act that should be removed. We again debate whether it is wise to put in the fact that the Board shall serve without compensation.

The Counties Code states "All member shall serve without compensation but may be reimburse for actual necessary expenses incurred in the performance of their duties." 55 ILCS 5/5-25012

ARTICLE XIII Property of the Board

Macon, St. Clair and Peoria each have similar provisions.

The Board seems to have placed the duties on themselves. While the BOH enabling legislation describes the acquisition of property, it does not use the term "inventory" or "insurance" anywhere.

This section begs the question, has the Board ever discussed an inventory of property or analyzed whether the insurance that protects the property is adequate? The Board may want to discuss the wisdom of self-mandating these "requirements".